

U.S. Department of Agriculture

AWARD TERMS AND CONDITIONS

SPECIALTY CROP BLOCK GRANT PROGRAM – FARM BILL

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1. Applicable Regulations

A. Administrative Provisions. This award, and subawards at any tier under this award, shall be governed to the extent applicable by the following provisions:

- 1) 7 CFR Part 3015, "Uniform Federal Assistance Regulations";
- 2) 7 CFR Part 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; and
- 3) 7 CFR Part 3019, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, Non-profit Organizations, and For-Profit Organizations."
- 4) 7 CFR Part 3052, "Audit of States, Local Governments, and Non-profit Organizations"

The Code of Federal Regulations is accessible through the [National Archives and Records Administration](#).

B. Federal Cost Principles. Allowable costs will be determined in accordance with the applicable program legislation, the purpose of the award, the terms and conditions of award as contained herein, and, if this award is to a recipient other than a Federal agency, by the following Federal cost principles that are applicable to the type of organization receiving the award, regardless of type of award or tier (i.e., prime awardee, subaward) as are in effect at the time of award:

- 1) 2 CFR Part 225 (OMB Circular No. A-87), "Cost Principles for State, Local, and Indian Tribal Governments";
- 2) 2 CFR Part 220 (OMB Circular No. A-21), "Cost Principles for Educational Institutions";
- 3) 2 CFR Part 230 (OMB Circular No. A-122), "Cost Principles for Nonprofit Organizations"; and

A complete list of current OMB Circulars can be found on the [White House Web site](#).

- 4) Federal Acquisition Regulations (48 CFR Part. 31.2), Principles for determining costs with profit making firms, "Contracts with Commercial Organizations".

The Code of Federal Regulations is accessible through the [National Archives and Records Administration](#).

2. Definitions

A. Federal Agency – Specialty Crop Block Grant Program-Farm Bill (SCBGP-FB), Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA).

B. Federal Agency Project Manager – the individual, acting within the scope of delegated authority, who is responsible for executing and administering awards on behalf of the USDA. The project coordinator’s address, telephone, and facsimile numbers are as follows:

Trista Etzig
Specialty Crop Block Grant Program

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USDA, Agricultural Marketing Service
1400 Independence Avenue, SW
Room 2077 – South
Washington, DC 20250-0235
Telephone: (202) 690-4942
Facsimile: (202) 720-0016

- C. Capital Expenditures** – expenditures for the acquisition cost of capital assets (equipment, buildings, land), or expenditures to make improvements to capital assets that materially increase their value or useful life.
- D. Consultant** – a person who provides advice or services for a fee, but not as an employee. The term includes guest speakers when not acting as employees of the party that engages them. Note that in unusual cases it is possible for a person to be both an employee and a consultant at the same time.
- E. Equipment** – tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost that equals or exceeds \$5,000 per unit.
- F. General Purpose Equipment** – equipment, which is not limited to research, scientific or other technical activities. Examples include office equipment and furnishings, telephone networks, information technology equipment and systems, reproduction and printing equipment, and motor vehicles.
- G. Grant** – an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee.
- H. Grantee/State Agency** – the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.
- I. Obligations** – the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given grant period that will require payment by the grantee during the same or a future period.
- J. Program Income** – gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the time between the effective date of the award and the ending date of the award reflected in the final financial report.
- K. Special Purpose Equipment** – equipment, which is used only for research, scientific, or other technical activities used solely to enhance the competitiveness of eligible specialty crops and benefit the specialty crop industry.

- L. State** – any of the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.
- M. State Agency Project Coordinator** – the individual who is authorized to commit the grantee's time and other resources to the project in order to ensure that the grantee remains in compliance with the terms and conditions of the award instrument including those set out herein, and to otherwise act for or on behalf of the grantee.
- N. Subgrant** – an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases or any form of assistance which is excluded from the definition of grant in this part.
- O. Subgrantee/Project Partner** – the government or other legal entity to which a subgrant is awarded and is accountable to the grantee for the use of the funds provided.
- P. Supplies** – all tangible personal property other than equipment.
- Q. Unobligated balance** – the portion of funds authorized by the Federal Agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

3. Assurances and Certifications

Assurances. As a condition of this grant award, the State Agency assures that it is in compliance with and will comply over the course of grant performance period with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, as prescribed by 7 CFR Part 3015, which hereby are incorporated in this grant award by reference, and such other provisions as are specified herein.

Certifications. In accepting this grant award, the State Agency specifically certifies that it:

- A.** Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project(s) described in this application.
- B.** Will give the Federal Agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- C.** Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

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- D.** Will initiate and complete the work within the applicable time frame after receipt of approval of the Federal Agency.
- E.** Will comply with the Intergovernmental Personnel Act of 1970 (42 USC §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR Part 900, Subpart F).
- F.** Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 USC §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 USC §794), which prohibits discrimination on the basis of disabilities; (d) the Age Discrimination Act of 1975, as amended (42 USC §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 USC §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 USC §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- G.** Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
- H.** Will comply, as applicable, with provisions of the Hatch Act (5 USC §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- I.** Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 USC §§276a to 276a-7), the Copeland Act (40 USC §276c and 18 USC §874), and the Contract Work Hours and Safety Standards Act (40 USC §§327-333), regarding labor standards for federally-assisted construction subagreements.
- J.** Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (PL 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

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- K.** Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (PL 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 USC §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 USC §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (PL 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (PL 93- 205).
- L.** Will comply with the Wild and Scenic Rivers Act of 1968 (16 USC §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- M.** Will assist the Federal Agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC §§469a-1 et seq.).
- N.** Will comply with PL 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- O.** Will comply with the Laboratory Animal Welfare Act of 1966 (PL 89-544, as amended, 7 USC §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- P.** Will comply with the Lead-Based Paint Poisoning Prevention Act (42 USC §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- Q.** Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
- R.** Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
- S.** Will make a good-faith effort to provide and maintain a drug-free environment by prohibiting illicit drugs in the workplace, providing employees with drug-free policy statements (including penalties for noncompliance), and establishing necessary awareness programs to keep employees informed about the availability of counseling, rehabilitation, and related services (§5151-5610 of the Drug-Free Workplace Act of 1988, as implemented by 7 CFR Part 3017, Subpart F, Section 3017.600, Purpose).

- T.** Has not used and will not use Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award or modification of any contract, grant, cooperative agreement, or loan; will disclose the name, address, payment details, and purpose of any agreements with lobbyists for whom it or its contractors or grantees have paid or will pay with profits or *non-appropriated* funds on or after December 23, 1989, for any award action in excess of \$100,000 (or \$150,000 for loans); will file quarterly updates about the use of lobbyists if material changes occur; and will require its nonexempt contractors or grantees to certify and disclose accordingly [§319, PL 101-121 (31 USC 1352), as implemented by 7 CFR Part 3018].
- U.** It and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; have not been convicted or indicted under criminal or civil statutes or had one or more public transactions terminated for cause or default within the past three years; will provide immediate written notice to the Authorized Departmental Officer if at any time it learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances; and will require recipients of lower-tier covered transactions under this grant award to similarly certify (EO 12549, as implemented by 7 CFR Part 3017, Section 3017.510, Participants’ responsibilities).

4. Project Standards and Responsibilities

- A.** Ensure that grant funds supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.
- B.** Monitor the performance of all project activities, and ensure that the work is completed within the required time frame.
- C.** Ensure Specialty Crop Block Grant Program funds are used only for activities in the approved State plan and approved amendments to the State Plan.
- D.** All travel expenses shall follow Federal Travel Regulations (41 CFR Part 300-304) unless written State travel requirements are in place.
- E.** The Federal Agency shall be notified as soon as problems, delays, or adverse conditions which will materially impair the Grantee’s ability to meet the objective of the award become known and if favorable developments such as meeting time schedules and objectives are accomplished sooner or at a lower cost than anticipated.
- F.** The results of the grant project(s) may be published by the Federal Agency, the State Agency, or by appropriate subcontractors or subgrantees as mutually agreed.
- G.** No member of Congress or resident commissioner shall be admitted to any share or part of this award or to any benefit to arise therefrom, unless it is made with a corporation for its general benefit.

5. Compensation for Personnel Services

Charges for salaries and wages, whether treated as direct or indirect cost, shall comply with 2 CFR Part 225, Appendix B, 8 and be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official of the governmental unit.

Employees who work solely on a single federal award or cost objective must support their salaries and wages with a signed “certification” at least semiannually. The “certification” shall be kept in the grantee or subgrantee files for review by the Federal Agency.

Employees who work on multiple activities or cost objectives must support their salaries and wages with activity reports to include:

- after-the-fact reporting of actual distribution of activities;
- account for the total activity for which the employee is compensated; and
- include the employee’s signature.
- The activity reports must be prepared at least monthly and coincide with one or more pay periods.
- The activity reports shall be kept in the grantee or subgrantee files for review by the Federal Agency.

6. Changes Requiring Prior Approval

A. The following items require a written notification via email:

1) Absence or Change in State Agency Key Personnel – When it is necessary to change the program contact for the State Agency for a period of more than three consecutive months, the State Agency shall submit a written notification (email is acceptable) to the Federal Agency. The notification shall contain the new individual’s name and contact information.

2) Absence or Change in Subgrantee/Project Partner - When a subgrantee/project partner plans to: relinquish active direction of the project for a period of more than three consecutive months, the State Agency shall submit a written notification (email is acceptable) to the Federal Agency. The notification shall contain the new subgrantee organization or name as well as the approved project title and SCBGP-FB grant agreement number affected.

B. The following items require a written request, including signature of the Project Coordinator for the State Agency and the Federal Agency before proceeding with change. The Federal Agency will accept a faxed document or PDF file with a signature.

1) Scope or Objectives

When it is necessary to modify the scope or objectives of the award, submit a written justification for the change to include the:

- i) The SCBGP-FB grant agreement number(s) affected by the change(s);

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- ii) The approved project title(s) affected by the change(s);
- iii) A description of the revised scope or objectives of the award; and
- iv) The signature of the Project Coordinator for the State Agency.

If requesting to discontinue all or a portion of a project in order to add a new project, submit a written justification for the change with the new project proposal to include:

- i) Project Title;
- ii) Project Partner;
- iii) Project Abstract;
- iv) Project Purpose;
- v) Potential Impact;
- vi) Expected Measurable Outcomes;
- vii) Work Plan;
- viii) Budget Narrative;
- ix) Project Oversight;
- x) Project Commitment; and
- xi) Signature of the Project Coordinator for the State Agency.

2) Extension of Grant Agreement – Where an extension of time is required; the extension(s) must be received in writing no later than 60 days prior to the expiration date of the award. The request from the State Agency program contact shall contain the following information:

- i) The SCBGP-FB grant agreement number(s) affected by the change;
- ii) The length of additional time required to complete project objectives and a justification for the extension
- iii) A summary of progress to date (status of project timeline and objectives...etc.);
- iv) An estimate of remaining funds on the scheduled expiration date;
- v) A projected timetable to complete the project for which the extension is being requested; and
- vi) Signature of the Project Coordinator for the State Agency.

Note: All awards are limited to 3 calendar years in duration from the start date of the grant agreement.

3) Budget Changes – Where a modification to the SCBGP-FB approved budget is required, the modification must be approved in writing by the SCBGP-FB if the cumulative amount of such a modification is 20 percent (20%) or more of the project’s total budget as last approved by the SCBGP-FB. A request for a budget change shall include:

- i) The SCBGP-FB grant agreement number(s) affected by the change;
- ii) The approved project title(s) affected by the change;
- iii) A description of the change;
- iv) A justification for the change; and
- v) Signature of the Project Coordinator for the State Agency.

Note: If the cumulative amount of allowable budget changes is less than 20 percent (20%), prior SCBGP-FB approval is not required.

7. Unallowable Costs

In addition to the guidance concerning proper expenditures provided in 2 CFR Part 225, 2 CFR Part 220, 2 CFR Part 230, and 48 CFR Part 31.2, the following costs are considered unallowable under this award.

- A. Costs which lie outside the scope of the approved project(s) and any amendments thereto.
- B. Costs of advertising and public relations designed solely to promote the governmental unit.
- C. Alcoholic beverages except when the costs are associated with enhancing the competitiveness of wine grapes and prior approval is given from the Federal Agency.
- D. Bad debts, including losses (whether actual or estimated) arising from uncollectable accounts and other claims, related collection costs, and related legal costs.
- E. Capital expenditures for general purpose equipment, buildings, and land.
- F. Costs associated with capital expenditures for special purpose equipment with a unit cost of \$5,000 or more without acceptance from the Federal Agency. Note: Acceptance from the Federal Agency means that the special purpose equipment must be included in the State Plan, and the State Plan must receive approval from the Federal Agency.
- G. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening.
- H. Contractual hourly rates that exceed the salary of a GS-14 step 10 Federal employee in your area (for more information please go to www.opm.gov and click on Salaries and Wages), unless an acceptable justification is provided.
- I. Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost.
- J. Contributions or donations, including cash, property, and services, made by the governmental unit, regardless of the recipient.
- K. Entertainment costs including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) regardless of their apparent relationship to project objectives.
- L. Airfare costs in excess of the customary standard commercial airfare (coach or equivalent), Federal Government contract airfare, or the lowest commercial discount airfare.

- M.** Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations.
- N.** Organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions regardless of the purpose for which the funds will be used.
- O.** General Costs of Government including: (1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executive of federally-recognized Indian tribal government; (2) Salaries and other expenses of a State legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction; (3) Costs of the judiciary branch of a government; (4) Costs of prosecutorial activities; and (5) Costs of other general types of government services normally provided to the general public, such as fire and police.
- P.** Costs of goods or services for personal use of the governmental unit's employees regardless of whether the cost is reported as taxable income to the employees.
- Q.** Indirect costs that are above the limit published in the Federal Register notice each fiscal year ([FY 2012 Notice of Funds Availability](#)).
- R.** Costs of investment counsel and staff and similar expenses incurred to enhance income from investments.
- S.** Development or participation in lobbying activities including costs of membership in organizations substantially engaged in lobbying.
- T.** Business meals when individuals decide to go to lunch or dinner together when no need exists for continuity of a meeting.
- U.** Development or participation in political activities in accordance with provisions of the Hatch Act (5 USC 1501-1508 and 7324-7326).
- V.** Cost associated with supplanting State funds.

8. Financial Management Standards

- A.** The State Agency must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds and meet the requirements of 7 CFR Part 3016.20.
- B.** Grant and subgrant records shall provide for complete, accurate, and current disclosure of financial results.

- C. The source and application of funds shall be readily identified by the continuous maintenance of updated records. Records, as such, shall contain information pertaining to grant or subgrant awards, authorizations, obligations, unobligated balances, assets, outlays, and income. When the recipient is a governmental entity, the records shall also contain liabilities.
- D. Effective control over and accountability for all grant or subgrant funds, real and personal property assets shall be maintained. Grantees and subgrantees shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes. In cases where projects are not 100 percent Federally funded, grantees and subgrantees must have effective internal controls to assure that expenditures financed with Federal funds are properly chargeable to the grant supported project.
- E. The actual and budgeted amounts for each grant or subgrant shall be compared. Financial information shall be related to performance and unit cost data. Estimates based on available documentation may be accepted for unit cost data.
- F. There shall be specific procedures established for minimizing the time elapsing between the transfer of funds from the Federal Agency and disbursement by grantees and subgrantees.
- G. Established procedures shall be used for determining the reasonableness, allowability, and allocability of costs in accordance with the cost principles prescribed by award term 1.B. and the provisions of this grant award.
- H. Accounting records shall be supported by source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract, and subgrant award documents.
- I. A systematic method shall be employed by each recipient to assure timely and appropriate resolution of audit findings and recommendations.

9. Procurement

The State Agency will follow the same policies and procedures it uses for procurement from its non-Federal funds.

10. Consultants

- A. Charges for consulting payments must be supported in the records of the grantee or cost-type contractor by an invoice from the consultant and a copy of the written report (if a report is appropriate) or other documented evidence of the work performed from the consultant.
- B. If any of the following information is not shown on the invoice and/or report from the consultant, the information must be shown in a memorandum or other document prepared by the recipient or contractor for its files, or noted in handwriting on the consultant's invoice by the recipient or

contractor. The memorandum, other document, or handwritten notation must be signed by an official of the recipient or contractor and show:

- 1) The name of the consultant;
- 2) The nature of the services provided (such as statistical analysis of data, participation on project advisory committee, etc.);
- 3) The relevance of the services to the project or program, if not apparent from the nature of the services; and
- 4) Whichever of the following is applicable:
 - (i) (If the fee was based on a rate per day or hours worked) the rate and the dates and/or hours worked;
 - (ii) (If the fee was based on a rate per unit of service provided) the rate, the number of units of service provided, and the beginning and ending dates of the overall period of service; or
 - (iii) (If the fee was determined on some other basis) the basis for determining the fee and the beginning and ending dates of the period in which services were provided.

11. Special Purpose Equipment

The State Agency shall use, manage, and dispose of equipment in accordance with State laws and procedures.

Grantees and subgrantees purchasing any special purpose equipment or product with funds provided under this award are encouraged to use such funds to purchase only American-made equipment or products.

Title to special purpose equipment acquired under this award will vest, upon acquisition, in the grantee or subgrantee respectively.

The cost of an item of nonexpendable special purpose equipment is the net invoice cost of the item, including necessary modifications for which it was acquired, fabricated, or constructed. Other charges such as the cost of installation, transportation, taxes, insurance, and the like, may be included or excluded from the unit acquisition cost in accordance with the grantee or subgrantees regular accounting practices.

If the approved award involves the acquisition of special purpose equipment to be maintained in a foreign country, the grantee or subgrantee is legally responsible for such equipment. The grantee or subgrantee should obtain a receipt from the cooperator in the foreign country and should send a copy of it to the Federal Agency. At the conclusion of the project, disposition instructions should be requested from the Federal Agency.

When the special purpose equipment is no longer needed by the grantee or subgrantee and the per unit fair market value is less than \$5,000, the grantee or subgrantee may retain, sell, or dispose of the equipment with no further obligation to the Federal Agency. If, on the other hand, the per unit fair

market value is \$5,000 or more, then the grantee or subgrantee must submit a written request to the Federal Agency for disposition instructions.

See 7 CFR Part 3015 Subpart R - Property for additional information pertaining to nonexpendable equipment.

12. Supplies

Title to supplies acquired under this award will vest, upon acquisition, in the grantee or subgrantee respectively. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally-sponsored programs or projects, the grantee or subgrantee shall compensate the Federal Agency for its share.

13. Copyrights

The Federal Agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

- A.** The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
- B.** Any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with grant support.

14. Subawards

- A.** Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal Assistance program under Executive Order 12549, “Debarment and Suspension”;
- B.** Ensure that every subgrant includes the following federal statutes and implementing regulations: 7 CFR Part 3015 “Uniform Federal Assistance Regulations”; Specialty Crop Competitiveness Act of 2004 (7 USC 1621 note) of Public Law 108-465; and 7 CFR Part 1291;
- C.** Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation including performance reporting and changes requiring prior approval;
- D.** Ensure that a provision for compliance with §3016.42 “Retention and access requirements for records” is placed in every cost reimbursement subgrant; and
- E.** Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.

- F. Ensure that subgrantees expending \$500,000 or more in Federal awards during the subgrantee's fiscal year have met the audit requirements of 7 CFR Part 3052, "Audit of States, Local Governments, and Non-profit Organizations" for that fiscal year.

15. Trafficking of Persons

- a. Provisions applicable to a recipient that is a private entity.
 - 1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not--
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
 - 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity --
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either--
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 7 CFR Part 3017.
- b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity--
 - 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either--
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 7 CFR Part 3017.
- c. Provisions applicable to any recipient.
 - 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - 2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

- i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 USC 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
 3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- d. Definitions. For purposes of this award term:
 1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR Part 175.25.
 - ii. Includes:
 - B. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR Part 175.25(b).
 - C. A for-profit organization.
 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 USC 7102).

16. Central Contractor Registration and Universal Identifier Requirements

A. Central Contractor Registration and Universal Identifier Requirements

1) Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR Part 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information.

2) Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

- (i) Must notify potential subrecipients that no entity (see definition in paragraph 3) of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
- (ii) May not make a subaward to an entity unless the entity has provided its DUNS number to you.

3) Definitions

For purposes of this award term:

- (i) Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
- (ii) Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
- (iii) Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, subpart C:
 - a) A Governmental organization, which is a State, local government, or Indian Tribe;
 - b) A foreign public entity;
 - c) A domestic or foreign nonprofit organization;
 - d) A domestic or foreign for-profit organization; and
 - e) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- (iii) Subaward:
 - a) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ----.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - c) A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
- (iv) Subrecipient means an entity that:
 - a) Receives a subaward from you under this award; and
 - b) Is accountable to you for the use of the Federal funds provided by the subaward.

17. Reporting Subawards and Executive Compensation

A. Reporting Subawards and Executive Compensation.

- 1) Reporting of first-tier subawards.
 - (i) Applicability.

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- a) Unless you are exempt as provided in paragraph 4) of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, PL 111-5) for a subaward to an entity (see definitions in paragraph 5) of this award term).
- (ii) Where and when to report.
 - a) You must report each obligating action described in paragraph 1)(i) of this award term to <http://www.fsrs.gov>.
 - b) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- (iii) What to report.
 - a) You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.
- 2) Reporting Total Compensation of Recipient Executives.
 - (i) Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if--
 - a) the total Federal funding authorized to date under this award is \$25,000 or more;
 - b) in the preceding fiscal year, you received--
 - 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR Part 170.320 (and subawards); and
 - \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR Part 170.320 (and subawards); and
 - c) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 USC 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 - (ii) Where and when to report. You must report executive total compensation described in paragraph 2)(i) of this award term:
 - a) As part of your registration profile at <http://www.ccr.gov>.
 - b) By the end of the month following the month in which this award is made, and annually thereafter.
- 3) Reporting of Total Compensation of Subrecipient Executives.
 - (i) Applicability and what to report. Unless you are exempt as provided in paragraph 4) of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if--

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- a) In the subrecipient's preceding fiscal year, the subrecipient received--
 - 80 percent or more of its annual gross revenues from Federal procurement contracts (and Subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR Part 170.320 (and subawards); and
 - \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - b) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 USC 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
- (ii) Where and when to report. You must report subrecipient executive total compensation described in paragraph 3)(i) of this award term:
- a) To the recipient.
 - b) By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- 4) Exemptions
- If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
- a) Subawards, and
 - b) The total compensation of the five most highly compensated executives of any subrecipient.
- 5) Definitions. For purposes of this award term:
- (i) Entity means all of the following, as defined in 2 CFR Part 25:
 - a) A Governmental organization, which is a State, local government, or Indian tribe;
 - b) A foreign public entity;
 - c) A domestic or foreign nonprofit organization;
 - d) A domestic or foreign for-profit organization;
 - e) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
 - (ii) Executive means officers, managing partners, or any other employees in management positions.
 - (iii) Subaward:
 - a) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ---- .210 of the attachment

to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

- c) A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- (iv) Subrecipient means an entity that:
 - a) Receives a subaward from you (the recipient) under this award; and
 - b) Is accountable to you for the use of the Federal funds provided by the subaward.
- (v) Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR Part 229.402(c)(2)):
 - a) Salary and bonus.
 - b) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - c) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - d) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - e) Above-market earnings on deferred compensation which is not tax-qualified.
 - f) Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

18. Payments

Advance payments of grant funds must be requested by the State agency using [Form SF-270, "Request for Advance or Reimbursement"](#) at least on a quarterly basis. Quarterly cash advances shall be limited to the minimum amounts needed to meet current disbursement needs and shall be scheduled so the funds are available closely as is administratively feasible to the actual disbursements by the State Agency for program costs (usually 30 days). Cash advances made by the State Agency to secondary recipient organizations or the State Agency's field organizations shall conform substantially to the same standards of timing and amount that applies to cash advances by the Federal Agency to the State Agency. Payments will be made electronically to the bank account specified by the State agency. The SF-270 shall be signed by the appropriate organizational representative and be submitted to SCBGP-FB by fax or email.

Requests for payments shall be scheduled so that all grant funds are obligated (encumbered) at the end of the grant agreement and disbursed within 90 days after the end date of the grant agreement. Any unobligated (unencumbered) balance of cash at the end of this period must immediately be refunded back to the Federal Agency.

The obligation of funds may be terminated without further cause unless the grantee commences the timely drawdown of funds; initial drawdown must be made within the first year of the grant period.

19. Program Income

If program income is earned, it must be used for: 1) expanding the project or program; 2) continuing the projects or program after the grant or subgrant support ends; and/or 3) supporting other projects or programs that further enhance the competitiveness of eligible specialty crops.

20. Earned Interest

Grantees shall remit interest earned on Federal advances deposited in interest bearing accounts to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.

Earned interest payments due to the Federal Agency will be made by check payable to the “Agricultural Marketing Service” Because packages sent to AMS through the United States Postal Service may be damaged or delayed due to security procedures at USDA Washington, D.C. headquarters, the use of express mail or courier services is required.

Express mail or courier submission should be sent to:

Specialty Crop Block Grant Program
USDA, Agricultural Marketing Service
1400 Independence Avenue, SW
Room 2077 – South
Washington, DC 20250-0235

21. Release of Information

The Freedom of Information Act of 1966 (5 U.S.C. 552) and the Privacy Act of 1874 (5 U.S.C. 552a), as implemented by USDA’s regulations (7 CFR Part 1.1), shall govern the release or withholding of information to the public in connection with this award. The release of information under these laws and regulations applies only to records held by AMS and imposes no requirement on the State Agency or any subgrantee to permit or deny public access to their records. Requests for records or the release of information relating to this award should be directed at:

USDA, Agricultural Marketing Service
FOIA/PA Officer
Rm 3521-S
Ag Stop 0202
1400 Independence Ave., SW
Washington, DC 20250-0273
Tel. (202) 720-2498
Fax. (202) 690-3767

E-Mail – AMS.FOIA@usda.gov

The regulations cited herein do not affect the retention period for project-related records or rights of access to such records by AMS, the Comptroller General, or their authorized representatives.

22. Performance Reporting

The State Agency is responsible for monitoring day-to-day performance and for reporting progress to the Federal Agency. If a project involves subcontractual arrangements (subgrantees), the State Agency also is responsible for monitoring the performance of project activities under those arrangements to ensure that approved outcomes and work plans are met.

An Annual Performance Report is required if a grant period is more than one year in length. Annual performance reports are due within 90 days after the end of the first year of the date of the signed grant agreement and each subsequent year until the expiration date of the grant period. If the grant period is one year or less, then only a final performance report is required. An Annual Performance Report covers the most recent one-year period.

A Final Performance Report is due within 90 days following the end date of the grant agreement. A Final Performance Report covers the entire grant period of the award. Please note the importance of preparing well written Final Performance reports. These reports should NOT contain personally identifiable information or proprietary information as the reports are available to the public at www.ams.usda.gov/scbgp.

Performance reports may be submitted electronically. Detailed information on the performance reporting requirements are found in the most recent publication entitled Eligibility, Application Requirements, and Grant Management Procedures on the Specialty Crop Block Grant Program – Farm Bill website at www.ams.usda.gov/scbgp.

Failure to submit an Annual Performance Report or Final Performance Report by the due date may result in grant funds being withheld until the report has been submitted as specified.

23. Financial Audit Requirements

The State is accountable for conducting an annual financial audit of the expenditures of all SCBGP-FB funds. This requirement shall be fulfilled by the Single Audit Act or a Program-Specific Audit in accordance with 7 CFR Part 3052, “Audit of States, Local Governments, and Non-profit Organizations”.

Single Audit Act

If the Single Audit Act applies, the State shall submit the annual audit results to the Federal Agency within 30 days after completion of the audit.

Program-Specific Audit

If the Single Audit Act does not apply, the State shall conduct an audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) of all SCBGP-FB funds no later than 60 days after the end date of the grant agreement. The State shall submit to the Federal Agency not later than 30 days after completion of the audit, a copy of the audit results.

24. Award Closeout

Award closeout is the process by which AMS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed. This award and any subawards hereunder shall be closed out as soon as possible after expiration of the grant period. While the State Agency may use its own policies and procedures in closing out awards made to its recipients, the following shall govern the closeout of the prime award.

1) A “Federal Financial Report” (Form SF-425) is required within 90 days following the grant agreement expiration date. The SF-425 will be signed by the appropriate organizational representative and be submitted to the Federal Agency by fax or email.

2) The grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the grant agreement expiration date. The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced.

3) A Final Performance Report may be submitted via email and is required within 90 days following the end date of the grant agreement. A Final Performance Report covers the entire grant period of the award. Please note the importance of preparing well written Final Performance reports. These reports should NOT contain personally identifiable information or proprietary information as the reports are available to the public at www.ams.usda.gov/scbgrp.

4) The State is accountable for conducting and submitting an annual financial audit of the expenditures of all SCBGP-FB funds. This requirement shall be fulfilled by the Single Audit Act or a Program-Specific Audit in accordance with 7 CFR Part 3052, “Audit of States, Local Governments, and Non-profit Organizations”. The State shall submit the most recent Single Audit or the Program Specific Audit. The Program Specific Audit shall be conducted 60 days after the end date of the grant agreement. The audit results shall be submitted to the Federal Agency not later than 30 days after completion of the audit.

25. Site Visits and Project Records

Work performed under this grant is subject to inspection and evaluation at all times by officials of the Federal Agency or by any of their duly authorized representatives through such mechanisms as the review of performance reports, site visits, and desk reviews. To the extent possible, all site visits will be made at mutually acceptable intervals and will be timed to avoid disruption to the program work and to grantee programs and personnel.

The Federal Agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the right of access to any books, documents, papers, or other project-related

records of the grantee and its contractors under this grant for examination and audit purposes and to obtain excerpts and transcripts.

26. Recordkeeping

Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, employee activity reports, canceled checks, invoices, paid bills, payroll records, and subaward documents. Records must be retained by the grantee and its contractors for a period of three years after submission and acceptance of the final SF-425, "Federal Financial Report." Records relating to audits, appeals, litigation, or the settlement of claims arising out of project performance shall be retained until such audits, appeals, litigation, or claims have been settled. Costs which cannot be supported by source documentation or which are incurred outside of the approved project period may result in award funds being returned to the Federal Government by the grantee.

27. Suspension/Termination

The Federal Agency, after reasonable notice to a State Agency, and an opportunity to be heard, finds that there has been a failure by the State Agency to comply substantially with any provision of this award, or other applicable laws or regulations the Federal Agency may disqualify, for one or more years, the State from receipt of future grants under Section 101 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108-465; 7 USC 1621 note.).

28. Limit of Federal Liability

The maximum obligation of AMS to the State Agency is the amount indicated in the award as obligated by AMS. Nothing in this article or in the other requirements of this award requires AMS to make any additional award of funds or limits its discretion with respect to the amount of funding provided for the same or any other purpose. However, in the event that an erroneous amount is stated in the award, the approved budget, or any supporting documentation relating to the award, AMS shall have unilateral right to make the correction and to make an appropriate adjustment in the AMS share of the award to align with the Federal amount authorized.